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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,529	07/25/2003	Elliot A. Rudell	155660-0222	2894
1622	7590	02/10/2006		
IRELL & MANELLA LLP 840 NEWPORT CENTER DRIVE SUITE 400 NEWPORT BEACH, CA 92660			EXAMINER DONNELLY, JEROME W	
			ART UNIT 3764	PAPER NUMBER

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/627,529	Applicant(s) RUDELL ET AL	
	Examiner Jerome W. Donnelly	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/29/05
- 2a) ☒ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

JEROME W. DONNELLY  
PRIMARY EXAMINER

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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Applicants remarks and request for reconsideration is convincing. A response including the additional prior art reference of Telepko is applied, to address the feature of "a timer that counts a time interval before activation of a motor and an indicator that provides and indication of the time count".

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 6-9 and 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steven in view of Telepko.

Stevens discloses a device used for jump rope exercises comprising a housing in the form of a driving station a hub assembly including elements (150, 156 and 158), an indicator (116) in the form of a counter and a crank arm (48).

The motor being attached to the housing, the hub being attached to the motor through belt (34) and the hub being attached to the jumping element through the crank.

In regard to claim 7 and 17 note spring (58).

In regard to claims 2, 3, 4, 8, 12 and 13 and the applicants claims of indicators, times, diodes, speakers, activation means, modes and mechanical inputs the examiner notes that these limitations and programming capabilities are obvious in view of the general state of the art and further in view of the technical disclosures of Telepko.

Telepko discloses a universal controller for exercise devices which has the capability of programming a unit to activate a timer that will count a time interval before activation of a motor

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and an indicator that provides an indication of the time count. See col., 5, lines 16-19, which discloses a watchdog timer for program execution. See col.13, lines 5-9, which discloses a capability of counting down, pausing, stopping and reversing of an exercise unit. Telepko also discloses at col. 21, line 31-38 the capability of a countdown display and a warm up option and a warm up timer.

Given the above disclosure the applicant notes that to use a universal controller such as the controller of Telepko to control the device of Stevens would have been obvious to one of ordinary skill in the art and that Telepko has the capability of providing the claimed modes of operation.

Claims 10, 11 and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudell et al in view of Telepko.


Rudell et al discloses a vertical rotational orientation of a hub of a jumping element. Telepko teaches providing a control means to an exercising unit which is capable of timing a motor to count a time interval before activation of a motor and indicators capable and a coupled to said timer for providing an indication of said time count.

Given the above teachings the examiner notes that it would have been obvious to one of ordinary skill in the art to provide a controller such as Telepko's for the purpose of controlling a jump rope routine.

In regard to claims 21-26 the examiner notes that the method of claims 21-26 is obvious in view of the capabilities of Rudell et al modified by Telepko and further in view of the well known method of starting a jump rope session by saying 1-2-3 go or 1-2-3 start, or 1-2-3 jump. Saying 1-2-3 go is a method of counting before a user start their routine of jumping rope.

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Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.



Jerome Donnelly